

1 PILLSBURY WINTHROP SHAW PITTMAN LLP  
RONALD E. VAN BUSKIRK (SBN 64683)  
2 BLAINE I. GREEN (SBN 193028)  
MARNE S. SUSSMAN (SBN 273712)  
3 Four Embarcadero Center, 22nd Floor  
Post Office Box 2824  
4 San Francisco, CA 94126-2824  
Telephone: (415) 983-1000  
5 Facsimile: (415) 983-1200

6 Attorneys for Petitioners and Plaintiffs  
STAND FOR SAN JOSE, EILEEN HANNAN,  
7 MICHELLE BRENOT, ROBERT BROWN, KAREN  
SHIREY, FRED SHIREY, AND ROBERT SHIELDS  
8

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 IN AND FOR THE COUNTY OF SANTA CLARA

12  
13 STAND FOR SAN JOSE; EILEEN  
HANNAN; MICHELLE BRENOT;  
14 ROBERT BROWN; KAREN SHIREY;  
FRED SHIREY; and ROBERT SHIELDS,  
15 Petitioners and Plaintiffs,  
16 v.  
17 CITY OF SAN JOSE; CITY COUNCIL OF  
THE CITY OF SAN JOSE;  
18 REDEVELOPMENT AGENCY OF THE  
CITY OF SAN JOSE; DIRIDON  
19 DEVELOPMENT AUTHORITY; DOES 1  
through 10, inclusive,  
20 Respondents and Defendants.  
21

22 ATHLETICS INVESTMENT GROUP LLC;  
DOES 11 through 20, inclusive,  
23 Real Parties in Interest.  
24

Case No. 111-CV-214196, related to and  
consolidated with  
Case No. 113-CV-250372

PETITIONERS' EX PARTE  
APPLICATION FOR ORDER TO  
STAY DEADLINE FOR FILING  
OPENING BRIEF UNTIL AFTER THE  
COURT HAS RULED ON  
RESPONDENTS' MOTION FOR  
CONTINUANCE; DECLARATION OF  
BLAINE I. GREEN IN SUPPORT  
THEREOF

Date: May 9, 2014  
Time: 9:00 a.m.  
Dept. 21  
Judge: Honorable Joseph Huber

Actions Filed: 12/2/2011; 7/13/13

## 1

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1 In accordance with Rule 3.1203 of the California Rules of Court and Local Civil  
2 Rule 7.F of this Court, SFSJ gave notice of this *ex parte* application to the City  
3 Respondents and to real party in interest Athletics Investment Group, LLC ("AIG") by  
4 email before 10 a.m. on May 8, 2014. (See Declaration of Blaine I. Green, ¶ 10.) In  
5 addition, SFSJ provided a copy of this Application to Respondents before 5:00 p.m. on  
6 May 8, 2014.

7 This Application is based on the accompanying Declaration of Blaine I. Green,  
8 the papers and records on file herein, and such argument as may be presented at the  
9 hearing of said Application.

10 Dated: May 8, 2014.

11 PILLSBURY WINTHROP SHAW PITTMAN LLP  
12 RONALD E. VAN BUSKIRK  
13 BLAINE I. GREEN  
14 MARNE S. SUSSMAN  
Four Embarcadero Center, 22nd Floor  
Post Office Box 2824  
San Francisco, CA 94126-2824

15  
16 By  \_\_\_\_\_

Blaine I. Green  
Attorneys for Petitioners

1                                    DECLARATION OF BLAINE I. GREEN  
2                                    IN SUPPORT OF EX PARTE APPLICATION

3    I, Blaine I. Green, declare:

4            1.        I am an attorney at law, duly admitted to practice before the courts of  
5    the State of California, and I am a partner with the law firm of Pillsbury Winthrop  
6    Shaw Pittman LLP, counsel for SFSJ in these consolidated actions. I have personal  
7    knowledge of the facts set forth herein which are known by me to be true and correct  
8    and, if called as a witness, I could and would competently testify thereto.

9            2.        This case involves two consolidated actions. SFSJ filed the first action  
10   in December 2011, challenging the City's approval of an option agreement ("Option")  
11   to sell downtown land to AIG ("Diridon Property"), at a 50% discount to fair market  
12   value, on grounds that approval of the Option violated Health & Safety Code section  
13   34161, et seq. ("Redevelopment Dissolution Law"), San Jose Municipal Code section  
14   4.95 (requiring a public vote before the City participates in using tax dollars to develop  
15   a sports facility), and the California Environmental Quality Act ("CEQA"). SFSJ filed  
16   the second action in July 2013, challenging the City's transfer of the Diridon Property"  
17   back to the Successor Agency for the Redevelopment Agency "subject to" the  
18   continued effectiveness of the Option. The second action named all the respondents in  
19   the initial action, plus the Successor Agency to the San Jose Redevelopment Agency  
20   ("Successor Agency") and the Oversight Board for the Successor Agency (Oversight  
21   Board").

22           3.        All City Respondents, including the Oversight Board for the Successor  
23   Agency, were served with the second petition on August 1, 2013. SFSJ filed a First  
24   Amended Petition in the second action on August 19, 2013, and a Second Amended  
25   Petition in that action on March 11, 2014. Attached as Exhibits 1, 2 and 3, respectively,  
26   are the proofs of service of the initial, First Amended and Second Amended Petitions  
27   which were served on all Respondents on August 1, 2013, August 20, 2013, and March  
28   11, 2014, respectively.

1           4.     On February 14, 2014, the Court set these consolidated actions for trial  
2 on August 8, 2014, at 9:00 a.m.

3           5.     In late February and early March, all parties (including the Oversight  
4 Board) negotiated and entered into a stipulated schedule for certification of the record  
5 and briefing on the merits. The Court approved the parties stipulation by order on  
6 March 11, 2014, a true and correct copy of which Stipulation and Order is attached  
7 hereto as Exhibit 4. Pursuant to this Stipulation and Order,

8                 • The City was required to certify the complete record (adding the  
9 record for the second SFSJ action) within 30 days after service of the  
10 Second Amended Petition. The Second Amended Petition was  
11 served on March 11, 2014; thus, the deadline for the City to certify  
12 the record was April 10, 2014.

13                 • SFSJ's opening brief was due May 14, 2014.

14                 • The City and AIG's opposition brief was due June 18, 2014.

15                 • SFSJ's reply was due July 9, 2014.

16           6.     The City delayed in certifying the record and missed the April 10, 2014  
17 deadline. The City did not certify the record until May 1, 2014, three weeks late. A  
18 true and copy of the City's certification of the record is attached hereto as Exhibit 5.

19           7.     On Friday, May 2, 2014, the day after certifying the record, the City's  
20 counsel, Ardell Johnson, sent an email stating that the Oversight Board had just decided  
21 it needs independent counsel. Mr. Johnson said he was instructed to seek a continuance  
22 of at least 60 days, and he requested a stipulation. A true and correct copy of Mr.  
23 Johnson's May 2 email is attached hereto as Exhibit 6.

24           8.     On Monday, May 5, 2014, I responded to Mr. Johnson's email, stating  
25 that SFSJ would not stipulate to a continuance that would substantially delay the trial  
26 date. I explained:

27                     The Oversight Board was named as a defendant-respondent when  
28                     the *SFSJ II* suit was filed in July 2013—more than 9 months ago—  
                      and our trial date of August 8 has been in place since February of

1 this year. In March 2014, all parties including the Oversight Board  
2 stipulated to a briefing schedule, pursuant to which petitioners'  
opening trial brief is due 9 days from today.

3 I offered to stipulate to having the City's motion for continuance be heard on shortened  
4 notice, so the motion could be heard before the impending May 14 deadline for SFSJ's  
5 opening brief. I stated:

6 If you wish to file a motion for continuance, we will stipulate to  
7 having the motion heard on shortened notice—and/or we will not  
oppose such application being considered on an ex parte basis—so  
8 long as the motion or application is heard by this Friday, which is  
normally Judge Huber's motion day. As you know, our opening  
9 brief is due on Wednesday, May 14, so this matter must be heard  
and decided as soon as possible to avoid prejudice caused by the  
10 timing of your request on the eve of our opening brief.

11 We look forward to your prompt reply.

12 A true and correct copy of my email response on May 5, 2014 is attached hereto as  
13 Exhibit 7.

14 9. As Mr. Johnson had not responded by May 6, 2014, I emailed Mr.  
15 Johnson that afternoon to inquire if the City still intended to seek a continuance. On  
16 May 7, 2014, Mr. Johnson replied that the City would still seek a continuance but—due  
17 to Mr. Johnson's schedule constraints—the earliest he would seek to have the matter  
18 heard would be on May 16, 2014, two days after SFSJ's opening brief was due. A true  
19 and correct copy of my May 6 email and Mr. Johnson's May 7 response is attached  
20 hereto as Exhibit 8.

21 10. On May 8, 2014, before 10:00 a.m., I emailed Mr. Johnson (including  
22 his colleagues in the City Attorney's Office, Richard Doyle and Nora Frimann), and  
23 AIG's counsel, Geoff Robinson, to provide notice that I would be appearing *ex parte* on  
24 May 9, 2014, at 9:00 a.m., in this Court, to request an order to stay the deadline for the  
25 filing of SFSJ's opening brief until not less than three court days after the Court ruled  
26 on the City's motion for continuance. In my email, I explained the grounds for our  
27 application:

28

1 By requesting a long continuance on the eve of our briefing  
2 deadline, but then waiting until after our opening brief is due to  
have your motion heard, you would:

3 (1) force SFSJ to file its opening brief less than 30 days after the  
4 City certified and provided the record;

5 (2) while potentially allowing respondents (if continuance were  
granted) an extra 60 or more days to file their opposition brief.

6 A true and correct copy of said email is attached hereto as Exhibit 9.

7 11. Mr. Johnson responded to my email by stating that he could not attend  
8 an *ex parte* hearing on Friday, May 9, and claiming that SFSJ would not suffer any  
9 prejudice from having to file its opening brief before the City brought its motion for  
10 continuance. I replied to Mr. Johnson as follows:

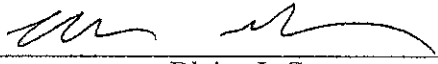
11 this matter cannot wait to next week. We need to know tomorrow  
12 whether we will have to file our opening brief on Wednesday.  
13 This is a 50-page opening brief, involving two cases, wherein the  
complete record was certified only on Thursday of last week (20  
14 days late). It would be severely prejudicial if our briefing time  
were reduced to 13 days from certification, while respondents took  
an extra 60-90 days based on a much-belated request for  
15 continuance.

16 If respondents oppose our *ex parte* application and you are not  
personally able to appear tomorrow, then I expect another lawyer  
17 from the City Attorney's office can appear (Ms. Frimann has  
appeared previously, and both she and Mr. Doyle have been cc'ed  
18 on all of our correspondence below), or Geoff Robinson (or  
another lawyer from his office) can appear (assuming that  
19 respondents' and real parties' interests are aligned on this matter as  
they have been throughout the case).

20 At 4:18 p.m., Mr. Johnson replied by objecting to the *ex parte* notice, stating that he,  
21 Ms. Frimann and Mr. Doyle were all unavailable on May 9, and that "[t]here is no one  
22 in the office who has familiarity with this case to appear in court tomorrow." A true  
23 and correct copy of my email exchange with Mr. Johnson on May 8, 2014 is attached  
24 hereto as Exhibit 10.

25 I declare under penalty of perjury under the laws of the State of California that  
26 the foregoing is true and correct.

27 Executed this 8th day of May, 2014, at San Francisco, California.

28   
Blaine I. Green

# Exhibit 1



1 Case No. 111-CV-214196; related to and consolidated with Case No. 113-CV-250372

2 PROOF OF SERVICE BY HAND DELIVERY

3 I, Douglas Wright, and Anthony Trugillo, the undersigned, hereby declare as follows:

4 1. We are over the age of 18 years and are not a party to the within cause. We  
5 are employed by Nationwide Legal LLC in the City of San Francisco, California.

6 2. Our business address is 859 Harrison Street, Suite A, San Francisco, CA  
7 94107.

8 3. On May 8, 2014, we served a true copy of the attached document titled exactly

9 PETITIONERS' EX PARTE APPLICATION FOR ORDER TO STAY DEADLINE

10 FOR FILING OPENING BRIEF UNTIL AFTER THE COURT HAS RULED ON

11 RESPONDENTS' MOTION FOR CONTINUANCE; DECLARATION OF BLAINE L.

12 GREEN IN SUPPORT THEREOF by placing it in an addressed sealed envelope clearly

13 labeled to identify the attorney being served at the address shown below and delivering it to

14 the attorney, or to the office of the attorney and leaving it with a receptionist or other person

15 having charge thereof, or (if there was no such person at the office) by leaving it between 9

16 A.M. and 5 P.M. in a conspicuous place in the office. Such service was effected on the

17 following attorneys:

18 Richard Doyle, Esq.  
19 Nora Frimann, Esq.  
20 Ardell Johnson, Esq.  
21 Assistant City Attorney  
22 City of San Jose  
200 East Santa Clara Street, 16<sup>th</sup> Floor  
San Jose, CA 95113  
(served by Douglas Wright)

Geoff L. Robinson, Esq.  
Perkins Coie LLP  
Four Embarcadero Center  
Suite 2400  
San Francisco, CA 94111  
(served by Anthony Trugillo)

23 We declare under penalty of perjury that the foregoing is true and correct. Executed  
24 this 8th day of May, 2014, at San Francisco, California.  
25

26 \_\_\_\_\_  
27 \_\_\_\_\_  
28

ATTORNEY OR PARTY WITHOUT ATTORNEY (name and Address) RONALD E. VAN BUSKIRK [SBN 64683] PILLSBURY WINTHROP SHAW FITTMAN LLP 4 EMBARCADERO CENTER, 22 <sup>ND</sup> FLR SAN FRANCISCO, CA 94111 TELEPHONE NO.: 415 983-1000 ATTORNEY FOR (Name): STAND FOR SAN JOSE, ET AL. SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOSE		FOR COURT USE ONLY <b>ENDORSED</b> 2013 AUG 12 P 12:38 CASE NUMBER: 113 CV 2500372 Ref. No. or File No.: 3214023
PLAINTIFF/PETITIONER: STAND FOR SAN JOSE, ET AL. DEFENDANT/RESPONDENT: CITY OF SAN JOSE; CITY COUNSEL OF THE CITY OF SAN JOSE, ET AL.		J. GAO-NGUYE Deputy Clerk
PROOF OF SERVICE OF SUMMONS		
DATE:	TIME:	DEPT:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
  - a. ☒ summons (AMENDED)
  - b. ☒ complaint
  - c. ☐ Alternative Dispute Resolution (ADR) package
  - d. ☒ Civil Case Cover Sheet (served in complex cases only)
  - e. ☐ cross-complaint
  - f. ☒ other (specify documents): VERIFIED PETITION FOR WRIT OF MANDAMUS; PETITIONERS' NOTICE REQUESTING PREPARATION OF RECORD OF PROCEEDINGS; NOTICE RELATED CASE
3. a. Party served: (specify name of party as shown on documents served): SUCCESSOR AGENCY OVERSIGHT BOARD  
 b. ☐ Person (other than the party in Item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made)(specify name and relationship to the party named in Item 3a): SUZANNE GUZZETTA/DEPUTY CITY CLERK-AUTHORIZED TO ACCEPT
4. Address where the party was served: 200 EAST SANTA CLARA STREET  
 SAN JOSE, CA 95113
5. I served the party (check proper box)
  - a. ☒ by personal service. I personally delivered the documents listed in Item 2 to the party or person authorized to receive service of process for the party (1) on (date): 08/01/2013 (2) at (time): 3:03PM
  - b. ☐ by substituted service. On (date): at (time): I left the documents listed in Item 2 with or in the presence of (name and title or relationship to the person indicated in Item 3b):
  - (1) ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
  - (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
  - (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
  - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): (city): or ☐ a declaration of mailing is attached.

COPY

(5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in Item 2 to the party, to the address shown in Item 4, by first-class mail, postage prepaid,

(1) (date):

(2) (city):

(3) ☐ with two copies of the Notice and Acknowledgment of Receipt (form 982(a)(4)) and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgment of Receipt (form 982(a)(4)).) (Code Civ. Proc., § 415.30.)

(4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

d. ☐ by other means (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

a. ☐ as an individual defendant

b. ☐ as the person sued under the fictitious name of (specify):

c. ☐ as occupant

d. ☒ on behalf of (specify): SUCCESSOR AGENCY OVERSIGHT BOARD

under the following Code of Civil Procedure section:

☐ 416.10 (corporation)

☐ 415.95 (business organization, form unknown)

☐ 416.20 (defunct corporation)

☐ 416.60 (minor)

☐ 416.30 (joint stock company/association)

☐ 416.70 (ward or conservatee)

☐ 416.40 (association or partnership)

☐ 416.90 (authorized person)

☒ 416.50 (public entity)

☐ 415.46 (occupant)

☐ other:

7. Person who served papers

a. Name: KRIS VORSATZ

b. Address:

Service Provided for:

NATIONWIDE LEGAL, LLC

859 HARRISON STREET, SUITE A, SAN FRANCISCO, CA 94107 (LA 12-234648)

Telephone number: (415) 351-0400

c. The fee for service was: \$

d. I am:

(1) ☐ not a registered California process server.

(2) ☐ exempt from registration under Business and Professions Code section 22350(b).

(3) ☒ registered California process server:

(i) ☐ owner ☐ employee ☒ independent contractor

(ii) Registration No.: 1160

(iii) County: SANTA CLARA

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 08/02/2013

Name of person who served papers/Sheriff or Marshal

(signature)

# Exhibit 2

ATTORNEY OR PARTY WITHOUT ATTORNEY (name and Address) Ronald E. Van Buskirk (SBN 84683) Blaine I. Green (SBN 193028) Stacey C. Wright (SBN 233414) PILLSBURY WINTHROP SHAW PITTMAN LLP Four Embarcadero Center, 22 <sup>nd</sup> Floor Post Office Box 2824 San Francisco, CA 94216-2824 TELEPHONE NO.: (415)983-1000 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Petitioners and Plaintiffs, STAND FOR SAN JOSE, EILEEN HANNAN, MICHELLE BRENOT, ROBERT BROWN, KAREN SHIREY, FRED SHIREY and ROBERT SHIELDS SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		FOR COURT USE ONLY  <b>ENDORSED</b>  2013 SEP -9 P 3:32  Ref. No. or File No.: <b>3216131</b>
PLAINTIFF/PETITIONER: STAND FOR SAN JOSE, et al. DEFENDANT/RESPONDENT: CITY OF SAN JOSE, et al.		CASE NUMBER: <b>113-CV-250372</b>
<b>PROOF OF SERVICE OF SUMMONS</b>		Ref. No. or File No.: <b>3216131</b>
DATE:	TIME:	DEPT:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
  - a. ☒ summons
  - b. ☐ complaint
  - c. ☐ Alternative Dispute Resolution (ADR) package
  - d. ☐ Civil Case Cover Sheet (served in complex cases only)
  - e. ☐ cross-complaint
  - f. ☒ other (specify documents): **VERIFIED FIRST AMENDED PETITION FOR WRIT OF MANDAMUS AND COMPLAINT FOR DECLARATORY RELIEF AND INJUNCTIVE RELIEF AND FOR ATTORNEY'S FEES;**
3. a. Party served: (specify name of party as shown on documents served): **SUCCESSOR AGENCY OVERSIGHT BOARD**  
 b. ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a): **REBECCA HALL - DEPUTY CITY CLERK**
4. Address where the party was served: **200 EAST SANTA CLARA SREET  
SAN JOSE, CA 95113**
5. I served the party (check proper box)
  - a. ☒ by personal service, I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **08/20/2013** (2) at (time): **10:40AM**
  - b. ☐ by substituted service, On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to the person indicated in item 3b):
    - (1) ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
    - (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
    - (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing

**BY FAX**

# Exhibit 3

RONALD E. VAN BUSKIRK, ESQ. PILLSBURY WINTHROP SHAW PITTMAN LLP FOUR EMBARCADERO CENTER, 22ND FLOOR SAN FRANCISCO, CA 94111 ATTORNEY FOR: PLAINTIFF		(415) 983-1000	FOR COURT USE ONLY
SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SANTA CLARA		END OF CASE	
PLAINTIFF: STAND FOR SAN JOSE, ET AL.		2014 MAR 12 AM 11:15	
DEFENDANT: ATHLETICS INVESTMENT GROUP LLC, ET AL.		By: J. CAO NGUYEN	
REFERENCE NO.: 3147024929	PROOF OF SERVICE		CASE NUMBER: 111CV214196

At the time of service I was at least eighteen years of age and not a party to this action, and I served copies of the:  
VERIFIED SECOND AMENDED PETITION FOR WRIT OF MANDAMUS AND COMPLAINT FOR DECLARATORY RELIEF  
AND INJUNCTIVE RELIEF AND FOR ATTORNEY'S FEES

in the within action by personally delivering true copies thereof to the person served as follows:

Served : SUCCESSOR AGENCY OVERSIGHT BOARD  
By serving : RUTH KRANTZ, DEPUTY CITY CLERK  
Address : 200 EAST SANTA CLARA STREET  
SAN JOSE, CA 95113  
Date of Service : MARCH 11, 2014  
Time of Service : 2:24PM



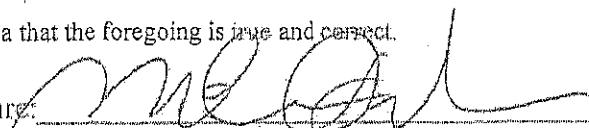
COUNTY LEGAL  
& NOTARY SERVICE

County Legal & Notary Service  
111 North Market Street, Suite 116  
San Jose, CA 95113  
Telephone: (408) 564-7360  
Registered in Santa Clara County  
Registered California Process Server No. 1410  
Registered California Professional Photocopier No. 071

The fee for service was:  
Person serving: MICHAEL DUBE  
I am a registered California process server.  
Registration No.: 1233  
County: SANTA CLARA

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: MARCH 11, 2014

Signature: 

MICHAEL DUBE

# Exhibit 4



(ENDORSED)  
**FILED**

MAR 11 2014

DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of Santa Clara County  
BY DAVID H. YAMASAKI DEPUTY  
Courtroom Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA

STAND FOR SAN JOSE et al.,  
Petitioners and Plaintiffs,

vs.

CITY OF SAN JOSE et al.,  
Respondents and Defendants.

Case No.: 1-11-CV-214196,  
consolidated with Case No. 113-CV-  
350372

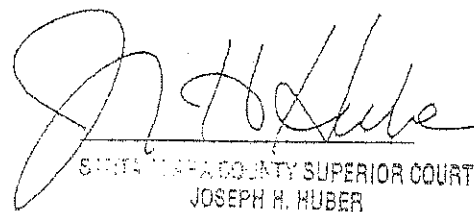
ORDER AFTER TELEPHONIC  
CONFERENCE

AND RELATED RPI

After conducting a telephonic conference with the parties on March 10, 2014 the following is the REVISED briefing schedule for the Hearing scheduled for August 8, 2014 at 9:00 AM in Department 21. Petitioner's Opening brief shall be filed and served no later than May 14, 2014; Respondents and RPI's Opposition brief shall be filed and served no later than June 18, 2014; Petitioners Reply brief shall be filed and served no later than July 9, 2014.

SO ORDERED.

Dated: March 10, 2014

  
SANTA CLARA COUNTY SUPERIOR COURT  
JOSEPH H. HUBER  
JUDGE

1 RICHARD DOYLE (SBN 88625)  
NORA FRIMANN (SBN 93249)  
2 ARDELL JOHNSON (SBN 95340)  
OFFICE OF THE CITY ATTORNEY  
3 CITY OF SAN JOSE  
200 East Santa Clara Street, T-16  
4 San Jose, CA 95113  
Telephone: 408.535.1900  
5 Facsimile: 408.998.3131

6 Attorneys for Respondents and Defendants  
City of San Jose, at al

7  
STEPHEN L. KOSTKA (SBN 57514)  
8 GEOFFREY L. ROBINSON (SBN 136259)  
MARIE A. COOPER (SBN 114728)  
9 PERKINS COIE LLP  
Four Embarcadero Center, Suite 2400  
10 San Francisco, CA 94111  
Telephone: 415.344.7000  
11 Facsimile: 415.344.7050

12 Attorneys for Real Party in Interest  
Athletics Investment Group LLC

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 IN AND FOR THE COUNTY OF SANTA CLARA

16  
17 STAND FOR SAN JOSE; EILEEN  
HANNAN; MICHELLE BRENOT;  
18 ROBERT BROWN; KAREN SHIREY;  
FRED SHIREY; and ROBERT SHIELDS,

19 Petitioners and Plaintiffs,

20 v.

21 CITY OF SAN JOSE; CITY COUNCIL OF  
THE CITY OF SAN JOSE;  
22 REDEVELOPMENT AGENCY OF THE  
CITY OF SAN JOSE; DIRIDON  
23 DEVELOPMENT AUTHORITY; DOES 1  
through 10, inclusive,

24 Respondents and Defendants.

26 ATHLETICS INVESTMENT GROUP LLC;  
DOES 11 through 20, inclusive,

27 Real Parties in Interest.  
28

PILLSBURY WINTHROP SHAW PITTMAN LLP  
RONALD E. VAN BUSKIRK (SBN 64683)  
BLAINE I. GREEN (SBN 193028)  
STACEY C. WRIGHT (SBN 233414)  
Four Embarcadero Center, 22nd Floor  
Post Office Box 2824  
San Francisco, CA 94111  
Telephone: (415) 983-1000  
Facsimile: (415) 983-1200

Attorneys for Petitioners and Plaintiffs  
Stand for San Jose, Eileen Hanna, Michelle Brenot,  
Robert Brown, Karen Shirey, Fred Shirey, and  
Robert Shields

(ENDORSED)  
**FILED**  
MAR 11 2014  
DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
BY Sylvia Roman DEPUTY  
Courtroom Clerk

Case No. 111-CV-214196, related to and  
consolidated with  
Case No. 113-CV-250372

STIPULATION REGARDING  
SCHEDULE FOR PLEADINGS AND  
CERTIFICATION OF THE RECORD  
IN SP5/11, AND BRIEFING  
SCHEDULE IN BOTH CASES; AND  
[PROPOSED] ORDER

Trial Date: August 8, 2014  
Trial Time: 9:00 a.m.  
Dept. 21  
Judge: Honorable Joseph Huber

Actions Filed: 12/2/2011; 7/31/13

1 WHEREAS, on December 2, 2011, Petitioners filed a petition for writ of mandate  
2 and complaint for declaratory relief in Case No. 111-CV-214196, and on December 7,  
3 2011, Petitioners filed an amended petition and complaint in such case ("First Petition");

4 WHEREAS, on July 30, 2013, Petitioners filed a new petition and complaint, Case  
5 No. 113-CV-250372 ("Second Petition") challenging the Diridon Development Authority's  
6 transfer of the Diridon Property to the Successor Agency subject to the Option Agreement;

7 WHEREAS, on August 13, 2013, the Court related and consolidated the First and  
8 Second Petitions;

9 WHEREAS, at the Case Management Conference on February 14, 2014, the Court  
10 set these consolidated cases for trial on August 8, 2014, at 9:00 a.m.;

11 WHEREAS, the parties desire to stipulate to a schedule for pleadings and  
12 certification of the record on the Second Petition, as well as a schedule for consolidated  
13 briefing on the two petitions;

14 NOW, THEREFORE, Petitioners, Respondents and Real Party, through their  
15 undersigned counsel, stipulate as follows:

16 1. PLEADINGS ON SECOND PETITION.

17 On March 3, 2014, Petitioners provided a copy of their proposed amended Second  
18 Petition (amended to reflect the activities of the Respondents during the LRPMP process) to  
19 Respondents and Real Party. Petitioners shall file their amended Second Petition forthwith  
20 after this Stipulation and Order is entered. Respondents and Real Party shall respond to the  
21 Second Petition by no later than April 2, 2014.

22 2. SETTLEMENT CONFERENCE.

23 The parties already participated in a settlement conference on the First Petition in  
24 accordance with Public Resources Code § 21167.8 of the California Environmental Quality  
25 Act ("CEQA"). Because the Second Petition is closely related to and consolidated with the  
26 First Petition, the parties agree that a further settlement conference on the Second Petition  
27 would be unnecessary and futile.

28

1           3.     CERTIFICATION OF RECORD ON SECOND PETITION.

2           Respondents shall assemble and certify the record on the Second Petition within  
3     thirty (30) days after service of the amended Second Petition.

4           4.     MOTIONS CONCERNING RECORD ON SECOND PETITION.

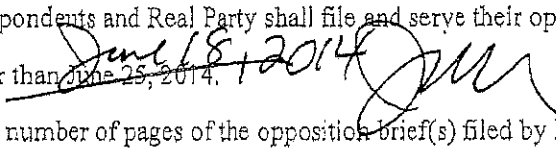
5           Any party may file a motion to augment the record, correct the record and/or strike  
6     documents from the record within 14 days after certification of the record, provided  
7     however, that no party shall be prevented from filing a motion, for good cause shown, to  
8     augment or correct the record at a later time to include documents obtained by  
9     Respondents, Petitioners or Real Party after the filing of this Stipulation.

10          5.     OPENING BRIEF.

11          (a)     Petitioners' opening brief shall be filed and served no later than May 14,  
12                  2014.

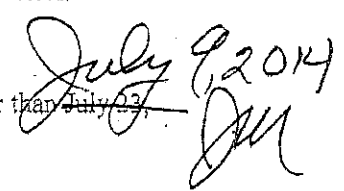
13          (b)     Petitioner's opening brief shall not exceed fifty (50) pages in length.

14          6.     OPPOSITION BRIEF(S).

15          (a)     Respondents and Real Party shall file and serve their opposition brief(s) no  
16                  later than ~~June 25, 2014~~ *June 18, 2014* 

17          (b)     The number of pages of the opposition brief(s) filed by Respondents and  
18                  Real Party shall not exceed eighty (80) pages in total. Respondents and Real  
19                  Party may, if they elect to do so, file a single joint opposition brief.

20          7.     REPLY BRIEF.

21          (a)     Petitioners shall file and serve a single reply brief by no later than ~~July 23,~~  
22                  2014. *July 9, 2014* 

23          (b)     Petitioners' reply brief shall not exceed thirty (30) pages in length.

24          8.     SERVICE OF PAPERS.

25          All briefs and supporting papers shall be served as follows: (a) e-mail attachment on  
26     the date due for service, and (b) hard-copy form by overnight delivery for arrival no later  
27     than on the morning of the day following the date due for service. If copies of record  
28

1 documents are provided to the court by any party, a copy of those documents shall be  
2 served by overnight delivery only.

3 9. CASE MANAGEMENT CONFERENCE.

4 In light of the briefing and hearing schedule set forth herein, the parties propose, and  
5 the Court finds, that a further Case Management Conference is not necessary in this matter.

6 10. TRIAL DATE.

7 The trial of these consolidated actions shall take place on August 8, 2014, at 9:00  
8 a.m., as ordered by this Court at the Case Management Conference on February 14, 2014.


9 11. MODIFICATIONS TO BRIEFING AND HEARING SCHEDULE.

10 Consistent with the requirement that CEQA actions be quickly heard and  
11 determined, modifications to this schedule shall be made only for good cause shown.

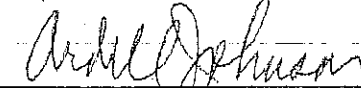
12 [Signatures on next page]  
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1 IT IS SO STIPULATED.


2 PILLSBURY WINTHROP SHAW PITTMAN LLP  
3 RONALD E. VAN BUSKIRK (SBN 64683)  
4 BLAINE I. GREEN (SBN 193028)  
5 STACEY C. WRIGHT (SBN 233414)  
6 Attorneys for Petitioners

7 By  \_\_\_\_\_

8 RICHARD DOYLE (SBN 88625)  
9 NORA FRIMANN (SBN 93249)  
10 ARDELL JOHNSON (SBN 95340)  
11 OFFICE OF THE CITY ATTORNEY  
12 CITY OF SAN JOSE  
13 Attorneys for Respondents and Defendants

14 By  \_\_\_\_\_

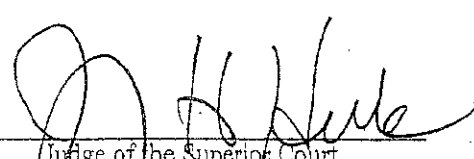
15 STEPHEN L. KOSTKA (SBN 57514)  
16 GEOFFREY L. ROBINSON (SBN 136259)  
17 MARIE A. COOPER (SBN 114728)  
18 PERKINS COIE LLP  
19 Attorneys for Real Party in Interest

20 By  \_\_\_\_\_

21 IT IS SO ORDERED.

22 Dated: MAR 10, 2014, 2014.

23 

24   
25 Judge of the Superior Court  
26 JUDGE JOSEPH H. HUBER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA  
191 N. First Street  
San Jose, CA 95113-1090

(ENDORSED)  
**FILED**

MAR 11 2014

DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
BY Sylvia Roman DEPUTY  
Courtroom Clerk

TO: Ronald E. Vanbuskirk  
Pillsbury Winthrop Shaw Pittman  
P.O. Box 2824  
San Francisco, CA 94126

RE: Stand For San Jose, Et Al Vs City Of San Jose, Et Al  
Case Nbr: 1-11-CV-214196

PROOF OF SERVICE

ORDER AFTER TELEPHONIC CONFERENCE

was delivered to the parties listed below in the above entitled case as set forth in the sworn declaration below.

Parties/Attorneys of Record:

CC: Stephen L. Kostka , Perkins Coie LLP  
Four Embarcadero Center, Suite 2400, San Francisco, CA 94111  
Geoffrey L. Robinson , Perkins Coie LLP  
Four Embarcadero Center, Suite 2400, San Francisco, CA 94111  
Richard Doyle , City Attorney's Office - SJ  
200 East Santa Clara St., 16th Floor Tower, San Jose, CA 95113-1905

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the American with Disabilities Act, please contact the Court Administrator's office at (408)862-2700, or use the Court's TDD line, (408)862-2690 or the Voice/TDD California Relay Service, (800)735-2922.

DECLARATION OF SERVICE BY MAIL: I declare that I served this notice by enclosing a true copy in a sealed envelope, addressed to each person whose name is shown above, and by depositing the envelope with postage fully prepaid, in the United States Mail at San Jose, CA on 03/11/14. DAVID H. YAMASAKI, Chief Executive Officer/Clerk by Sylvia Roman, Deputy

# Exhibit 5



## CERTIFICATION

Re: Administrative Record Pursuant to CCP Section 1094.6(c)

*Stand for San Jose v. City of San Jose*

Santa Clara County Superior Court Case No. 1-11-CV-214196 – LEAD

Consolidated and related to Case No. 1-13-CV-250372 – NON-LEAD

I, the undersigned, hereby certify that the documents contained within the Administrative Record Supplement for the above-entitled matter, with pages Bates-numbered SJ0010844 through SJ0013171, are true and correct copies of records contained within the files of the City of San Jose regarding the administrative proceedings for the transfer to the Successor Agency to the Redevelopment Agency of the City of San Jose certain real property and other assets as identified by California State Controller in the Asset Transfer Review in March, 2013 which were previously transferred to the San Jose Diridon Area Development Authority in March, 2011 by the former San Jose Redevelopment Agency; and the Oversight Board of the Successor Agency to the Redevelopment Agency of the City of San Jose approval of the Long Range Property Management Plan Pursuant to Health and Safety Code Section 34191.5.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 1st day of May, 2014 at San Jose, California.



MARK F. LIPARI

Legal Analyst

Office of the City Attorney

City of San Jose

# Exhibit 6

**Green, Blaine I.**

---

**From:** Johnson, Ardell <Ardell.Johnson@sanjoseca.gov>  
**Sent:** Friday, May 02, 2014 2:48 PM  
**To:** Green, Blaine I.; grobinson@perkinscoie.com  
**Cc:** Doyle, Richard; Frimann, Nora  
**Subject:** Today's Oversight Board meeting

Blaine, Geoff,

This afternoon the Oversight Board decided it needs to engage independent counsel in the SFSJ litigation. I've been instructed to seek a continuance so the Board can get counsel in place. The Board instructed staff to issue an RFP. The best estimate is it will take about 60 days to complete the process and get new counsel on board. Before I make a motion to continue the hearing, I thought I'd see if we can reach a stipulation. Can we discuss this on a conference call early next week?

Ardell Johnson

Chief Deputy City Attorney

City of San Jose | Office of the City Attorney

200 E. Santa Clara St., 16th Floor | San Jose, CA | 95113-1905

Tel: 408.535.1904 | Fax: 408.998.3131

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# Exhibit 7

**Green, Blaine I.**

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**From:** Green, Blaine I.  
**Sent:** Monday, May 05, 2014 2:47 PM  
**To:** 'Johnson, Ardell'; grobinson@perkinscoie.com  
**Cc:** Doyle, Richard; Frimann, Nora; Van Buskirk, Ronald E.; Sussman, Marne S.  
**Subject:** RE: Today's Oversight Board meeting

Ardell,

The Oversight Board was named as a defendant-respondent when the *SFSJ II* suit was filed in July 2013—more than 9 months ago—and our trial date of August 8 has been in place since February of this year. In March 2014, all parties including the Oversight Board stipulated to a briefing schedule, pursuant to which petitioners' opening trial brief is due 9 days from today. In these circumstances and at this late date, we cannot stipulate to a continuance that would substantially delay the trial set for August 8.

If you wish to file a motion for continuance, we will stipulate to having the motion heard on shortened notice—and/or we will not oppose such application being considered on an *ex parte* basis—so long as the motion or application is heard by this Friday, which is normally Judge Huber's motion day. As you know, our opening brief is due on Wednesday, May 14, so this matter must be heard and decided as soon as possible to avoid prejudice caused by the timing of your request on the eve of our opening brief.

We look forward to your prompt reply.

--Blaine

**Blaine Green** | Partner  
Pillsbury Winthrop Shaw Pittman LLP  
Four Embarcadero Center, 22nd Floor  
San Francisco, CA 94111-5998  
t 415.983.1476 | f 415.983.1200

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# Exhibit 8

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**From:** Johnson, Ardell <Ardell.Johnson@sanjoseca.gov>  
**Sent:** Wednesday, May 07, 2014 11:38 AM  
**To:** Green, Blaine I.; grobinson@perkinscoie.com  
**Cc:** Doyle, Richard; Frimann, Nora; Van Buskirk, Ronald E.; Sussman, Marne S.  
**Subject:** RE: Today's Oversight Board meeting

Yes, we do. I am out of the office today through Friday, so Tuesday is the earliest I can make an ex parte order to shorten time for the motion. I will ask Judge Huber to hear the motion on the 16<sup>th</sup>.

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**From:** Green, Blaine I. [<mailto:blaine.green@pillsburylaw.com>]  
**Sent:** Tuesday, May 06, 2014 4:57 PM  
**To:** Johnson, Ardell; [grobinson@perkinscoie.com](mailto:grobinson@perkinscoie.com)  
**Cc:** Doyle, Richard; Frimann, Nora; Van Buskirk, Ronald E.; Sussman, Marne S.  
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Do you still intend to seek a continuance? Please advise.

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--Blaine

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# Exhibit 9

**Green, Blaine I.**

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**From:** Green, Blaine I.  
**Sent:** Thursday, May 08, 2014 9:51 AM  
**To:** 'Johnson, Ardell'; grobinson@perkinscoie.com  
**Cc:** Doyle, Richard; Frimann, Nora; Van Buskirk, Ronald E.; Sussman, Marne S.  
**Subject:** Notice of Ex Parte Application

Ardell,

As you know, and as I reiterated in my email earlier this week, our opening brief is due on Wednesday, May 14. You seem to ignore this. By requesting a long continuance on the eve of our briefing deadline, **but then waiting until after our opening brief is due to have your motion heard**, you would:

- (1) force SFSJ to file its opening brief less than 30 days after the City certified and provided the record (18 days late, on April 28);
- (2) while potentially allowing respondents (if continuance were granted) an extra 60 or more days to file their opposition brief.

We carefully negotiated a briefing schedule that was fair to both sides, with approximately 30 days between certification of the record, opening and opposition briefs. If the Court were to grant the continuance you request and on the schedule you request it (i.e. after SFSJ has already filed its opening brief), then your clients would be advantaged—by their own lack of diligence in requesting a continuance many months ago—and SFSJ would be prejudiced.

Accordingly, this email will serve as notice that we intend to appear on an *ex parte* basis tomorrow at 9 a.m. before Judge Huber, in Department 21, to apply for an order to stay the deadline for the filing of SFSJ's opening brief until not less than 3 court days after Judge Huber has ruled on respondents' motion for continuance.

Please let me know if respondents oppose this application.

Last, with regard to your proposal to hear the motion for continuance on Friday, May 16, be advised that we are not available as we will be at a firm-wide conference in Southern California that day. We are available for hearing any other day next week, as well as on Monday (5/19) or Tuesday (5/20 morning only) of the following week.

--Blaine

**Blaine Green** | Partner  
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# Exhibit 10

**Green, Blaine I.**

---

**From:** Johnson, Ardell <Ardell.Johnson@sanjoseca.gov>  
**Sent:** Thursday, May 08, 2014 4:18 PM  
**To:** Green, Blaine I.; grobinson@perkinscoie.com  
**Cc:** Doyle, Richard; Frimann, Nora; Van Buskirk, Ronald E.; Sussman, Marne S.  
**Subject:** RE: Notice of Ex Parte Application

Blaine,

Rick Doyle and Nora Frimann are at the annual City Attorney's conference, which is where I am, along with other attorneys from our office. There is no one in the office who has familiarity with this case to appear in court tomorrow. I received an out-of-the office message from Geoff in response to my email so I don't know if he is even aware of your proposed ex parte appearance. Your insistence on appearing ex-parte under these circumstances concerns me. If you had issues with the filing date, why didn't you raise the issue before I informed you about the issue with the Oversight Board's representation? An ex parte hearing on Monday would still allow the court to give you relief before your brief is due after hearing from both sides. I object to your ex parte notice, given after I informed you I was unavailable this week and urge you to wait until Monday so I can appear.

Ardell Johnson  
Chief Deputy City Attorney  
City of San Jose | Office of the City Attorney  
200 E. Santa Clara St., 16th Floor | San Jose, CA | 95113-1905  
Tel: 408.535.1904 | Fax: 408.998.3131

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**From:** Green, Blaine I. [mailto:blaine.green@pillsburylaw.com]  
**Sent:** Thursday, May 08, 2014 1:19 PM  
**To:** Johnson, Ardell; grobinson@perkinscoie.com  
**Cc:** Doyle, Richard; Frimann, Nora; Van Buskirk, Ronald E.; Sussman, Marne S.  
**Subject:** RE: Notice of Ex Parte Application

Ardell,

As I stated by email Monday in reply to your surprising request for continuance, this matter cannot wait to next week. We need to know tomorrow whether we will have to file our opening brief on Wednesday. This is a 50-page opening brief, involving two cases, wherein the complete record was certified only on Thursday of last week (20 days late). It would be severely prejudicial if our briefing time were reduced to 13 days from certification, while respondents took an extra 60-90 days based on a much-belated request for continuance.

If respondents oppose our *ex parte* application and you are not personally able to appear tomorrow, then I expect another lawyer from the City Attorney's office can appear (Ms. Frimann has appeared previously, and both she and Mr. Doyle have been cc'ed on all of our correspondence below), or Geoff Robinson (or another lawyer from his office) can appear (assuming that respondents' and real parties' interests are aligned on this matter as they have been throughout the case).

--Blaine

Blaine Green | Partner  
Pillsbury Winthrop Shaw Pittman LLP  
Four Embarcadero Center, 22nd Floor  
San Francisco, CA 94111-5998  
t 415.983.1476 | f 415.983.1200

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**From:** Johnson, Ardell [<mailto:Ardell.Johnson@sanjoseca.gov>]  
**Sent:** Thursday, May 08, 2014 11:28 AM  
**To:** Green, Blaine I.; [grobinson@perkinscoie.com](mailto:grobinson@perkinscoie.com)  
**Cc:** Doyle, Richard; Frimann, Nora; Van Buskirk, Ronald E.; Sussman, Marne S.  
**Subject:** RE: Notice of Ex Parte Application

Blaine,

As you know from my email yesterday I am out of the office tomorrow and I cannot attend an ex parte hearing tomorrow. Given your comments below, I think it's important that I have an opportunity to appear and address your application, so I ask that you please wait until Monday so I can appear.

I fail to see how a continuance causes any disadvantage to you. The record on the first case was completed months ago and you have had all of the documents that comprise the second part of the record, literally, since they were first generated, so the delay in certifying the record relates to indexing and numbering documents only, not the substantive content of the record.

The issue necessitating the request to continue the hearing date, i.e., the Oversight Board's desire to have separate representation, is something I did not foresee and cannot resolve. Frankly, I don't see why it matters if you serve the brief on the 14<sup>th</sup>. Obviously it's done, or nearly so. The issues are not going to change. The record is not going to change. The claims will stand or fall on their legal merit regardless of whether the opposing brief is filed in 30 or 60 days. I just don't see why you are complaining. On the other hand, if you serve the brief, maybe knowledge of the issues will ease the Oversight Board's concern about having separate representation and allow this case to move forward with less disruption of the current schedule.

Ardell Johnson  
Chief Deputy City Attorney  
City of San Jose | Office of the City Attorney  
200 E. Santa Clara St., 16th Floor | San Jose, CA | 95113-1905  
Tel: 408.535.1904 | Fax: 408.998.3131

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**From:** Green, Blaine I. [<mailto:blaine.green@pillsburylaw.com>]  
**Sent:** Thursday, May 08, 2014 9:51 AM  
**To:** Johnson, Ardell; [grobinson@perkinscoie.com](mailto:grobinson@perkinscoie.com)  
**Cc:** Doyle, Richard; Frimann, Nora; Van Buskirk, Ronald E.; Sussman, Marne S.  
**Subject:** Notice of Ex Parte Application

Ardell,

As you know, and as I reiterated in my email earlier this week, our opening brief is due on Wednesday, May 14. You seem to ignore this. By requesting a long continuance on the eve of our briefing deadline, but then waiting until after our opening brief is due to have your motion heard, you would:

(1) force SFSJ to file its opening brief less than 30 days after the City certified and provided the record (18 days late, on April 28);



(2) while potentially allowing respondents (if continuance were granted) an extra 60 or more days to file their opposition brief.

We carefully negotiated a briefing schedule that was fair to both sides, with approximately 30 days between certification of the record, opening and opposition briefs. If the Court were to grant the continuance you request and on the schedule you request it (i.e. after SFSJ has already filed its opening brief), then your clients would be advantaged—by their own lack of diligence in requesting a continuance many months ago—and SFSJ would be prejudiced.

Accordingly, this email will serve as notice that we intend to appear on an *ex parte* basis tomorrow at 9 a.m. before Judge Huber, in Department 21, to apply for an order to stay the deadline for the filing of SFSJ's opening brief until not less than 3 court days after Judge Huber has ruled on respondents' motion for continuance.

Please let me know if respondents oppose this application.

Last, with regard to your proposal to hear the motion for continuance on Friday, May 16, be advised that we are not available as we will be at a firm-wide conference in Southern California that day. We are available for hearing any other day next week, as well as on Monday (5/19) or Tuesday (5/20 morning only) of the following week.

--Blaine

Blaine Green | Partner  
Pillsbury Winthrop Shaw Pittman LLP  
Four Embarcadero Center, 22nd Floor  
San Francisco, CA 94111-5998  
t 415.983.1476 | f 415.983.1200

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**From:** Johnson, Ardell [<mailto:Ardell.Johnson@sanjoseca.gov>]  
**Sent:** Wednesday, May 07, 2014 11:38 AM  
**To:** Green, Blaine I.; [grobinson@perkinscole.com](mailto:grobinson@perkinscole.com)  
**Cc:** Doyle, Richard; Frimann, Nora; Van Buskirk, Ronald E.; Sussman, Marne S.  
**Subject:** RE: Today's Oversight Board meeting

Yes, we do. I am out of the office today through Friday, so Tuesday is the earliest I can make an *ex parte* order to shorten time for the motion. I will ask Judge Huber to hear the motion on the 16<sup>th</sup>.

Ardell Johnson  
Chief Deputy City Attorney  
City of San Jose | Office of the City Attorney  
200 E. Santa Clara St., 16th Floor | San Jose, CA | 95113-1905  
Tel: 408.535.1904 | Fax: 408.998.3131

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**From:** Green, Blaine I. [<mailto:blaine.green@pillsburylaw.com>]  
**Sent:** Tuesday, May 06, 2014 4:57 PM  
**To:** Johnson, Ardell; [grobinson@perkinscole.com](mailto:grobinson@perkinscole.com)  
**Cc:** Doyle, Richard; Frimann, Nora; Van Buskirk, Ronald E.; Sussman, Marne S.  
**Subject:** RE: Today's Oversight Board meeting

Ardell,

Do you still intend to seek a continuance? Please advise.

--Blaine

**Blaine Green** | Partner  
Pillsbury Winthrop Shaw Pittman LLP  
Four Embarcadero Center, 22nd Floor  
San Francisco, CA 94111-5998  
t [415.983.1476](tel:415.983.1476) | f [415.983.1200](tel:415.983.1200)

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**From:** Green, Blaine I.  
**Sent:** Monday, May 05, 2014 2:47 PM  
**To:** 'Johnson, Ardell'; [grobinson@perkinscole.com](mailto:grobinson@perkinscole.com)  
**Cc:** Doyle, Richard; Frimann, Nora; Van Buskirk, Ronald E.; Sussman, Marne S.  
**Subject:** RE: Today's Oversight Board meeting

Ardell,

The Oversight Board was named as a defendant-respondent when the *SFSJ* // suit was filed in July 2013—more than 9 months ago—and our trial date of August 8 has been in place since February of this year. In March 2014, all parties including the Oversight Board stipulated to a briefing schedule, pursuant to which petitioners' opening trial brief is due 9 days from today. In these circumstances and at this late date, we cannot stipulate to a continuance that would substantially delay the trial set for August 8.

If you wish to file a motion for continuance, we will stipulate to having the motion heard on shortened notice—and/or we will not oppose such application being considered on an *ex parte* basis—so long as the motion or application is heard by this Friday, which is normally Judge Huber's motion day. As you know, our opening brief is due on Wednesday, May 14, so this matter must be heard and decided as soon as possible to avoid prejudice caused by the timing of your request on the eve of our opening brief.

We look forward to your prompt reply.

--Blaine

**Blaine Green** | Partner  
Pillsbury Winthrop Shaw Pittman LLP  
Four Embarcadero Center, 22nd Floor  
San Francisco, CA 94111-5998  
t [415.983.1476](tel:415.983.1476) | f [415.983.1200](tel:415.983.1200)

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**From:** Johnson, Ardell [<mailto:Ardell.Johnson@sanjoseca.gov>]  
**Sent:** Friday, May 02, 2014 2:48 PM  
**To:** Green, Blaine I.; [grobinson@perkinscole.com](mailto:grobinson@perkinscole.com)  
**Cc:** Doyle, Richard; Frimann, Nora  
**Subject:** Today's Oversight Board meeting

Blaine, Geoff,

This afternoon the Oversight Board decided it needs to engage independent counsel in the *SFSJ* litigation. I've been instructed to seek a continuance so the Board can get counsel in place. The Board instructed staff to issue an RFP. The best estimate is it will take about 60 days to complete the process and get new counsel on board. Before I make a motion to continue the hearing, I thought I'd see if we can reach a stipulation. Can we discuss this on a conference call early next week?

Ardell Johnson

Chief Deputy City Attorney

City of San Jose | Office of the City Attorney

200 E. Santa Clara St., 16th Floor | San Jose, CA | 95113-1905

Tel: 408.535.1904 | Fax: 408.998.3131

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